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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/643,496	08/19/2003	Jerome A. Cohen	6842-02-1	5471

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EXAMINER


SAFARI, MICHAEL

ART UNIT PAPER NUMBER

3673

DATE MAILED: 03/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

 Office Action Summary	Application No. 10/643,496	Applicant(s) COHEN, JEROME A.	
	Examiner M. Safavi	Art Unit 3673	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 December 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 2, 5 and 8-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 5, and 8-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input checked="" type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |



Drawings

The proposed amended drawing filed December 27, 2004 has not been approved. It is not clear as to what reference character 24 is directed. Fig. 1 does not appear to show any "spacers" as is denoted by reference character 24. The lead line of reference character 24 appears to be directed to the "joining portion". Actually, the proposed drawing does not present a clear lead line or figure to allow an understanding of what is depicted by reference character 24.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 2, 9, and 10 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The specification does not appear clear and complete as to a spacer or spacers coupled to the foundation form and located so that when the said first and second connecting members are positioned on respective foundation forms the spacer acts as a stop to properly locate each of said connecting members. How particularly, does the U-shaped or flat spacer "extend between the foundation forms"? How is the U-shaped or flat spacer coupled to the foundation forms?

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The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 2, 5, 9, and 10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 5 appears dependent upon a canceled claim.

Further, it is not clear as to what is being defined by claims 2, 9, and 10 since the specification does not appear clear and complete as to a spacer or spacers coupled to the foundation form and located so that when the said first and second connecting members are positioned on respective foundation forms the spacer acts as a stop to properly locate each of said connecting members. How particularly, does the U-shaped or flat spacer "extend between the foundation forms"? How is the U-shaped or flat spacer coupled to the foundation forms?

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section

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351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 2, 8, and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Clee et al. Clee et al. discloses, Fig. 2, first and second connecting members 18, 20, each defining at least one joining portion 32 with each of said first and second connecting members being coupable to an end of a panel, or "foundation form", 12, 14 so that when said panels are operably positioned adjacent to one another said joining portions defined by each of said connecting members interlock with one another. Each joining portion defines a shaped passage extending there through with the shaped passage being substantially coaxial with one another when said first and second connecting members are operably positioned. An elongated coupling member 22 defining an exterior shape complimentary to a shape defined by said shaped passages is slidably received in said shaped passages thereby rotatably and releasably joining said first and second connecting members and thereby said panels, or "foundation forms", together. Spacers are as at that portion, (U-shaped), against which the panels 18, 20 abut. Attaching means is in the form of T-shaped slots, (formed by 36/38), into which pre-installed fasteners 42 projecting outwardly from respective forms are attached.

Response to Arguments

Applicant's arguments filed December 27, 2004, with respect to the rejection of claims 2, 9, and 10 under 35 USC 112, have been fully considered but they are not persuasive. Applicant's remarks do not clarify the deficiency of description as to the

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spacers 24 of the instant disclosure. Applicant's remarks do not appear to correspond with what is presented within the instant disclosure. For example, Applicant states that the spacers "are attached to the foundation forms so as to act as a stop for the first and second connecting members". However, the specification is not clear as to the spacers being attached to the forms. Lines 2-5 do not recite such an arrangement. How exactly are the spacers attached to the forms? And, how would the spacers, if attached to the forms, act as a stop? How would such a "stop" act to properly locate each of the connecting members? Figure 4A, for example, does not appear to show any form members, let alone form members having a spacer attached thereto. Applicant's proposed Fig. 1 does not serve to clarify as such proposed Figure 1 appears to vaguely depict the "edge joining portion".

Allowable Subject Matter

Applicant may wish to insert the full language of original claim 7 into claim 1 in order to place the application in condition for allowance. Language reciting the first and second connecting members as attached to the "foundation forms", (original claim 4), as well as language reciting that the T-shaped slots "[extend] through each of the first and second connecting members", (original claim 6), and that the T-shaped slots are "shaped to allow said first and second connecting members to be slidably attached to said foundation forms via pre-installed fasteners projecting outwardly from said foundation forms", (original claim 7). Applicant may wish to insert into claim 1 that the T-shaped slots are formed as "a plurality of apertures extending through each of the first

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and second connecting members", (claim 5). Otherwise, claim 5 would be, more or less, "hanging" or present a double inclusion.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to M. Safavi whose telephone number is (703) 308-2481. The examiner can normally be reached on Mon.-Thur., 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather Shackelford can be reached on (703) 308-2978. The fax phone

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number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



**MICHAEL SAFAVI
PRIMARY EXAMINER
ART UNIT 354**

M. Safavi
March 15, 2005